IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2007

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

Writ Petition Nos.46487 and 46488 of 2006 and M.P.Nos.1 of 2006

C.Rekha .. Petitioner in W.P.No.46487 of 2006

V.Saveeta Surana .. Petitioner in W.P.No.46488 of 2006

v.

The District Collector
Kancheepuram District
Kancheepuram ... Respondent in both W.P.s

Petitions under Article 226 of the Constitution of India praying for the issue of a Writ of mandamus as stated therein.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.R.Thirugnanam,Spl.G.P.

ORDER

The writ petition in W.P.No.46487 of 2006 is filed seeking for the relief of issuance of writ of Mandamus to direct the respondent to consider the petitioner's representation dated 18.11.2006 and grant lease to the petitioner for the period of ten years with respect to stone quarry comprised in S.No.221 of Periyavenmani village, Medurandagam Taluk, Kancheepuram District over an extent of 0.88.5 hectares.

2. The writ petition in W.P.No.46488 of 2006 is filed seeking for the relief of issuance of writ of Mandamus to direct the respondent to consider the petitioner's representation dated 18.11.2006 and grant lease to the petitioner for the period of ten years with respect to stone quarry comprised in S.No.409 (part) of Onempakkam village, Medurandagam Taluk, Kancheepuram District over an extent of 5 hectares.

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3. It is the common case of the petitioners that they were originally granted mining lease for a period of five years commencing from 11.1.2007 to 10.1.2012 for quarrying blue metal in respect of the properties mentioned supra. The petitioners have also executed respective lease deeds for five years. According to the petitioners, as per Rule 8(8) of the Tamil Nadu Minor Mineral Concession Rules, the period of lease in respect of the stone quarry has to be granted ten years if the quarry is regarded as virgin quarry. This period was originally for five years only. Subsequently, on and from 17.11.2000, the amendment has been incorporated extending the period of lease to ten years in respect of virgin quarry. The quarries leased out to the petitioners are also virgin quarries and as per the statutory provision, the period must be ten years. The petitioners are prepared to pay the balance lease amount in respect of the five years also. On that basis, the present writ petitions are filed.

4. On the other hand, the respondents filed counter and it is contended that it is true that all the statutory statements made by the petitioners are correct, but the quarries cannot be regarded as virgin quarries as there was certain illicit quarrying in the area.

5. I heard the argument of the learned counsel on either side and perused the material on record.

6. The reasoning given in the counter cannot be regarded as a reason to non-suit the petitioners for the demand of the petitioners for grant of lease for a statutory period as provided under the Rules. The Government thought it fit that in respect of the virgin quarry the period should be ten years and that is the reason the provision has been amended to ten years from five years. Some third parties have illicitly quarried in a piece of area or particular quantity in the subject land cannot render the quarry as already exploited. If the Government has not leased out the quarry earlier, and it has not been exploited legally, it could only be regarded as a virgin quarry. Any illicit quarrying of small quantity cannot be regarded as an exploitation of quarry, and it comes outside the purview of Rule 8(8).

7. Hence, the respondent is hereby directed to grant lease in favour of the petitioners for ten years as provided under Rule 8(8) instead of five years in respect of their respective quarries. It is also open to the respondent to recover and realise from the petitioners the proportionate lease amount for the extended period of five years.

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8. With this observation, the writ petitions are disposed of. No costs. Consequently, the connected M.Ps are closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The District Collector
Kancheepuram District
Kancheepuram

+ 2 ccs to Mr. M. Muthappan, Advocate SR No. 17834 & 17835

+ 2 ccs to the Government Pleader, SR No.18354, 18353

W.P.Nos.46487 and 46488
of 2006

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SR/27.3.2007

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